

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT


(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference 35557WOP00 | FOR FURTHER ACTION | See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416). |
| International Application No. PCT/AU2003/000820 | International Filing Date (day/month/year) 27 June 2003 | Priority Date (day/month/year) 27 June 2002 |
| International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A61K 035/78; A61P 15/00 | | |
| Applicant CHINESE MEDICINES SCIENTIFIC CONSULTANTS PTY LTD et al | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I Basis of the report
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

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| Date of submission of the demand 13 January 2004 | Date of completion of the report 27 January 2004 |
| Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929 | Authorized Officer  MICHAEL GRIEVE Telephone No. (02) 6283 2267 |

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I. Basis of the report

1. With regard to the elements of the international application:*

- the international application as originally filed.
- the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- the claims, pages , as originally filed,
pages , as amended (together with any statement) under Article 19,
pages , filed with the demand,
pages , received on with the letter of
- the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. The amendments have resulted in the cancellation of:

- the description, pages
- the claims, Nos.
- the drawings, sheets/fig.

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|----------------|-----|
| Novelty (N) | Claims 1 to 34 | YES |
| | Claims | NO |
| Inventive step (IS) | Claims 1 to 34 | YES |
| | Claims | NO |
| Industrial applicability (IA) | Claims 1 to 34 | YES |
| | Claims | NO |

2. Citations and explanations (Rule 70.7)

D1: WO 2000/025801A

NOVELTY (N)

The present invention relates to a composition for treating or alleviating a symptom resulting from a gynaecological disorder, comprising the herbs:

- Chi Shao (Paeonia obovata, Root)
- Dang Gui (Angelica Polymorpha, Root)
- Chuan Xiong (Ligusticum Wallichii, Root)
- Xiang Fu (Cyperus Rotundus, Rhizome)
- Yan Hu Suo (Corydalis turtschaninovii, Rhizome)
- Tao Ren (Prunus persica, Seed)

or parts thereof.

Document D1 is merely considered to disclose the general state of the art. This document relates to herbal compositions for the treatment of gastrointestinal disorders, but does not comprise all of the herbs listed above, as required by the present composition.

INVENTIVE STEP (IS)

Claims 1 to 34 - see the comments under novelty above.